

REMARKS

The non-final Office Action of November 17, 2009, (“the Office Action”) has been carefully reviewed and the remarks that follow are responsive thereto. Claims 11 and 21 have been amended to be in more preferred form. No claims have been canceled. Claims 8-10, 18-20, and 28-30 were previously canceled. No claims have been added. No new matter has been introduced. Claims 1-7, 11-17, and 21-27 thus remain pending. Reconsideration and allowance of the instant application are respectfully requested.

Allowable Subject Matter

At the outset, Applicant thanks the Examiner for the indication of allowable subject matter with respect to claims 2-7, 12-17, and 22-27.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 11, and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,793,438 to Bedard (“Bedard”). For the reasons set forth below, Applicant respectfully traverses this rejection.

Independent claim 1 recites a computer-implemented method comprising, *inter alia*:

modifying a non-textual attribute associated with the object by an incremental amount for each of at least two times that the object is selected, wherein the non-textual attribute after each modification visually indicates a number of times the object has been selected, wherein each modification of the attribute includes changing a visible characteristic of the object and wherein each modification results in a different appearance of the object.

(Emphasis added). Nowhere does Bedard teach or suggest such features.

The Office Action, at page 3, asserts that Bedard discloses, at 5:8-22 and FIG. 5, that “upon manipulation (via selection) of the magnified area of the EPG, the area is incrementally shifted (by ½ hr increments as seen in at least Figure 5) left or right dependent upon user’s input.” In addition, the Office Action further asserts that “Bedard inherently discloses that one may gather a number of times the magnified area has been selected via where (i.e. at what time slot) the area is currently positioned with reference to a starting time (i.e. current time).” Office Action at 3.

In pertinent part, however, Bedard states:

Overlaid over table 502 is a magnified table 510 listing more detailed information relating to the programs broadcast in a particular half hour time slot. Magnified table 510 is aligned with table 502 but is wider than a single column of table 502. Each entry of magnified table 510 includes the title of the programming displayed at that time. By operating horizontal cursor arrow keys 317B, the viewer may shift magnified table 510 along table 502 to display the titles of programming broadcast at other time slots. Further shifting of magnified table 510 beyond the displayed time slots will cause the range of displayed time slots to change. Magnified table 510 can be understood as a magnifying lens which may be shifted over table 502. In one embodiment, the titles of individual channels appear at the edge of magnified table 510 rather than at the edge of table 502.

Bedard at 5:8-22 (emphasis added).

Bedard's description does not support the Office Action's assertion that "Bedard inherently discloses that one may gather a number of times the magnified area has been selected via where (i.e. at what time slot) the area is currently positioned with reference to a starting time (i.e. current time)." Indeed, in the passage of Bedard quoted above, a viewer could select a first time slot in table 502, select a second time slot in table 502, and then again select the first time slot in table 502, and nothing would indicate the number of times that the first time slot was selected.

Furthermore, Applicant notes that the fact that a certain result or characteristics may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristics. MPEP § 2112(IV) (citing *In re Rijckaert*, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993)) (emphasis added). To establish inherency, "the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.'" *In re Robertson*, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). As noted above, the Office Action has not demonstrated that the feature of "modifying a non-textual attribute associated with the object by an incremental amount for each of at least two times that the object is selected, wherein the non-textual attribute after each modification visually indicates a number of times the object has been selected" is necessarily present in Bedard.

Thus, Applicant respectfully submits not only that the Office Action misinterprets the description of Bedard, but also that Bedard fails to teach or suggest all of the features recited in independent claim 1. For at least these reasons, independent claim 1 is allowable.

In addition, independent claims 11 and 21 recite similar features as independent claim 1, and thus, independent claims 11 and 21 are allowable for substantially the same reasons as independent claim 1.

CONCLUSION

All issues having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or if there are any questions, the Examiner is invited to contact the undersigned at (202) 824-3000.

Respectfully submitted,
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